IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

WP(C).No. 28450 of 2007(J)

PETITIONER:

KENTON LEISURE SERVICES PVT. LTD.,
ATTINKUZHI, NEAR TECHNOPARK, KAZHAKUTTOM,
THIRUVANANTHAPURAM, REP. BY ITS GENERAL MANAGER,
SRI.T.N.SREEKUMAR MENON.

BY ADV. SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.HARIHARAN NAIR

RESPONDENTS:

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1. SALES TAX OFFICER (LUXURY TAX),
OFFICE OF THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, THIRUVANANTHAPURAM.

2. THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY G.P.SRI. C.K. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C).NO.28450 OF 2007-J

Dated this the 25th day of September, 2007.

JUDGMENT

This writ petition is filed challenging Ext.P8 notice issued by the 1st respondent asking the petitioner to appear in the personal hearing in relation to proceedings under the Kerala Tax on Luxuries Act, 1976. By this notice, objection raised by the petitioner to Ext.P5 show cause notice is overruled and before final orders are passed, Ext.P8 is issued. The orders pursuant to Ext.P8 is appealable in terms of Section 7 of the Act and therefore, I see no reason to entertain this writ petition.

The learned counsel for the writ petitioner submits that jurisdiction of the authority who has initiated the proceedings itself is in dispute. On going through the writ petition and on hearing the counsel, what I notice is that the contention raised is regarding illegality of the proceedings. If this is the dispute, it is for the petitioner to urge it before the appellate authority and it is for the appellate authority to decide the same. The other contention raised is regarding the hardships in complying with conditions in

case an appeal is filed. The statutory prescription for maintaining an appeal cannot be a reason to bye pass the remedy. I see no reason to entertain this writ petition. Without prejudice to the contentions raised and the remedy available to the petitioner, this writ petition is dismissed.

ANTONY DOMINIC, JUDGE.

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